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### **REMARKS**

This response is intended as a full and complete response to the final Office Action mailed May 3, 2006. In the Office Action, the Examiner notes that claims 1-24 are pending and rejected.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §102 and §103.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

### **OBJECTIONS**

#### **Priority**

The Examiner states the "[T]he disclosure of the prior-filed application, Application No. 60/222784, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application." Applicant respectfully disagrees.

The Examiner contends that "claims 1-20 and 22-25 lack adequate support [in that] the prior - filed application does not specifically disclose (1) 'temporal and spatial parameters' nor (2) 'encoding a video stream according to said profile... having a screen position and an image size,' nor (3) 'combining said navigation stream....'"

With respect to (1) "temporal and spatial parameters", referring to page 5 of the priority document, it is stated that:

"Video profiles are created such that the navigator video and advertisement video may be encoded to an identical profile. The navigation authoring process is changed such that locations in the navigator where advertisements may be placed are tagged so that the DDL 500 multiplexer knows the location of the advertisements."

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The above-quoted portion of the disclosure refers to locations where advertisements may be placed (i.e., spatial parameters) and encoding according to identical profiles (such profiles including temporal parameters such as positions of I-frames and the like).

With respect to (2) "encoding a video stream according to said profile... having a screen position and an image size," the above-quoted paragraph states that "video profiles are created such that the navigator video and advertisement video may be encoded to an identical profile." The above-quoted portion of the priority document continues as follows:

"The video and audio advertisements are preprocessed in two ways, firstly video asset is re-encoded as MPEG with the navigator profile then the MPEG file is pre-processed to a slice level recombinant format so that it may be multiplexed with the navigator by the DDL 500."

The above-quoted portion of the disclosure refers to preprocessing of advertisements. Specifically, navigator video has already been encoded, which encoding is associated with a profile including spatial and temporal parameters as noted above. Then (i.e., after the encoding of the navigator video), the advertisement video is encoded using the navigator profile. Stated differently, the navigator profile does not exist until the navigator encoding process has been performed. Thus, by using the navigator profile to encode the advertisement video, the profiles of the encoded advertisement and navigator video streams are identical.

With respect to (3) "combining said navigation stream....," the encoded navigator stream and encoded advertising streams are combined by the DDL 500 multiplexer/stream processor.

As noted in the second to last paragraph of page 2, "video promotions are integrated into the navigation programming stream...." (i.e., advertising and navigation streams are combined).

Additionally, the section beginning at the bottom of page 3 refers to the "in stream video" processing associated with the navigator function.

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As further noted in the middle paragraph of page 4, "the advertising system will provide information on the streaming media advertisements, typically a 15 second video with associated audio, that is to be delivered to the customer [by] integrating the advertisement with the navigator screen."

Finally, on page 6 (referring to the diagram therein), the middle paragraph states that, "At point B the DDL, using the information from the private data packet [identifying an add tag or splicing tag] and the returned add information from the add-management system, will insert information addressed to the set-top...." That is, the DDL multiplexes or combines the streams.

In view of the above-quoted portions of the priority document, as well as of the portions contained within the priority document, it is respectfully submitted that the invention of claims 1-20 and 22-25 is fully supported. As such, Applicant requests that the Examiner recognize the support of these claims in the priority document.

## **REJECTIONS**

### **35 U.S.C. §102**

#### **Claims 1-6, 8-11, 13-17, and 20**

The Examiner has rejected claims 1-6, 8-11, 13-17, and 20 under 35 U.S.C. §102(e) as being anticipated by Gordon WO 00/64170, hereinafter "Gordon." Applicant respectfully traverses the rejection.

The Gordon reference fails to disclose or suggest at least the steps of: (1) "determining a profile associated with an encoded navigation stream....," and (2) "encoding a video stream according to said profile...."

The subject invention operates to determine a profile associated with an encoded navigation stream. The claimed profile includes spatial and temporal parameters. The determined profile is then used to adapt the encoding of a video stream. The previously encoded navigation stream and newly encoded video stream are then combined to produce a "combined stream representing navigation imagery including said video stream imagery...."

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Gordon discloses a data structure and related methods associated with providing an interactive program guide. Of relevance to the instant patent application, the Examiner is referred to figure 4 of Gordon, which depicts a high-level block diagram of an interactive information distribution system. Of particular interest is the video profile module 460, which the Examiner apparently equates to the profiling functionality of the claimed invention. Page 17, lines 13-17 of Gordon state that:

"the streams are generated in a synchronized manner with respect to a clock source 405, such that GOP structures, sequence headers, I-picture location and other parameters (which are indicated by the profile unit 460) are aligned across a plurality of information streams."

The above-quoted portion of Gordon, as well as an inspection of figure 4 of Gordon, reveals that Gordon merely teaches a video profile module 460 that is responsive only to a clock signal. The video profile module 460 does not receive input from any other functional element within the Gordon system. As such, to the extent that the video profile module 460 provides data to various video encoders, such data is predefined or otherwise static.

With respect to (1) "determining a profile associated with an encoded navigation stream...", it is noted that Gordon teaches no such step. Gordon simply does not utilize an encoded navigation stream. Therefore, there is no profile of such an encoded navigation stream to be determined. Therefore, there can be no step of determining.

With respect to (2) "encoding a video stream according to said profile...", it is noted that Gordon teaches no such step. As noted above, Gordon simply does not determine such a profile. Therefore, Gordon cannot be said to teach the utilization of such a determined profile.

In summary, to the extent that Gordon utilizes any encoded streams (video or otherwise), such streams are encoded at the same time and without any conformance to a profile derived from another stream. More specifically, there is absolutely no teaching or suggestion in Gordon of any use of any video stream to determine a profile that is subsequently used to encode another video

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stream. The Gordon arrangement simply operates in a different manner than the claimed invention.

In the instant Office Action, in the response to arguments section on page 2, the Examiner states:

Gordon discloses "determining a profile associated with an encoded navigation stream" and "encoding a video stream according to said profile." The profile parameters that is part of the transport MPEG stream, is actually encoded video data. This reads on the encoding video stream according to said profile. In other words, the profile parameter information is the claimed "profile associated with an encoded navigation stream because the profile parameter information is being derived from the MPEG transport stream, it is well known that the MPEG transport stream is comprised of compressed video data. Since demultiplexer 230 demultiplexes the MPEG transport stream, it thereby determines a profile associated with an encoded navigation stream, to be supplied to the video decoder to decoder the MPEG transport stream....

Applicant strongly disagrees with the above statement. The Examiner is mischaracterizing different levels of MPEG functionality and also somehow linking subscriber side functionality to server side functionality. Moreover, whatever is supplied to the decoder is not relevant to the claimed invention.

The transport demultiplexer 230 is a mechanism for separating or demultiplexing packetized streams. The transport demultiplexer 230 extracts from a transport stream a sub stream comprising those packets having a common packet identification (PID). Gordon at column 16, line 23 discusses an embodiment in which the transport demultiplexer 230 "produces" sequence headers and I-picture locations. Information used to identify a particular stream (via the PID) or an access unit or frames boundary within the stream (via the sequence header or I-picture locations) do not even teach the claimed profile information (which also includes spatial information).

The following differences between the claimed invention and Gordon are noted:

(1) Gordon does not discuss spatial profile data, only frame boundary data;

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(2) Irrespective of the profile data discussed in Gordon, the profile data is extracted at subscriber side equipment and provided, if at all, to a decoder (rather than an encoder); and

(3) There is no providing of the Gordon profile data to an encoder, much less an encoder according to claimed invention.

(1) Gordon does not discuss spatial profile data, only frame boundary data. The profile data discussed by Gordon with respect to transport demultiplexer 230 is not data included as part of a transport stream; rather, the profile data may be determined by examining packets associated with substreams within the transport stream. Thus, contrary to the Examiner's assertions, profile parameters are not part of the transport MPEG stream. In fact, segment or access unit boundaries at most provide some temporal information associated with a sub stream.

(2) Irrespective of the profile data discussed in Gordon, the profile data is extracted at subscriber side equipment and provided, if at all, to a decoder (rather than an encoder). That is, there's absolutely no teaching in Gordon of profile data derived via the transport demultiplexer 230 (or any other element) which is used in the process of encoding a video stream. Whether a video decoder within Gordon uses or does not use any profile data is irrelevant to the present analysis. The present invention operates within the context of a video encoder as, for example, at a server. The portion of Gordon cited by the Examiner pertains to subscriber functionality, which functionality has absolutely nothing to do with the claimed invention.

(3) There is no providing of the Gordon profile data to an encoder, much less an encoder according to claimed invention. As previously noted, there is no use of any profile data by the video profile module 460 of Gordon (it merely provides common profile data). Thus, the encoders of Gordon do not encode in response to video profiles extracted or determined from any other video stream. There is simply no connection between the operation of the transport demultiplexer 230 within the subscriber equipment of Gordon and the video

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profile module 460 within the server equipment of Gordon. These elements are not connected, they are not responsive to each other and they certainly do not teach the claimed invention.

Thus, even if the subscriber side circuitry somehow determined profile information associated with the received video stream, there is simply no disclosure or suggestion of such determined profile information being propagated back to the encoding circuitry at the server. As such, whatever encoding process occurs in Gordon, to the extent that profile information is utilized within an encoding process such profile information does not come from the subscriber side apparatus or from any other stream profile. Therefore the Examiner's contention is simply incorrect.

Therefore, Applicant submits that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, independent claim 20 recites features substantially similar to the features of claim 1. As such, for at least the reasons discussed above with respect to claim 1, independent claim 20 is also not anticipated by Gordon and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder.

Accordingly, Applicant submits that claims 1 and 20 are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Furthermore, claims 2-6, 8-11, and 13-17 depend, either directly or indirectly, from independent claim 1 and recite additional limitations therefor. As such, and for at least the same reasons as discussed above with respect to claim 1, Applicant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicant respectfully requests that the rejection be withdrawn.

#### **Claims 21-25**

The Examiner has rejected claims 21-25 under 35 U.S.C. §102(e) as being anticipated by Gordon 6,584,153, hereinafter "Gordon '153." Applicant respectfully traverses the rejection.

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Applicant respectfully notes that the relevant portion of Gordon '153 is the same as discussed above with respect to Gordon WO 00/64170. Moreover, since claim 21 includes relevant limitations similar to those recited in independent claims 1 and 20, for at least the same reasons as discussed above with respect to claim 1, Applicant submits that claim 21 is allowable. Furthermore, claims 22-25 depend directly from independent claim 21 and recite additional limitations therefrom. As such, and for at least the reasons as discussed above with respect to claim 21, Applicant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicant respectfully requests that the rejection be withdrawn.

**35 U.S.C. §103****Claim 12**

The Examiner has rejected claim 12 under 35 U.S.C. §103(a) as being unpatentable over Gordon. Applicant respectfully traverses the rejection.

Claim 12 is patentable for at least the reasons discussed above with respect to claim 1 from which it depends (i.e., Gordon fails to teach or suggest each and every element of Applicant's invention of claim 1).

Additionally, Applicant does not necessarily agree with the Examiner's official notice regarding the updating of demographic data. Though such updating may now be well known, the instant application was filed in 2001 and claims priority to a provisional application filed in 2000. However, in view of the patentability of claim 1 over the Gordon reference, there appears to be little need to investigate the propriety of the official notice, though Applicant reserves the right to such a request.

**Claim 7**

The Examiner has rejected claim 7 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Gordon WO 01/031914, hereinafter Gordon

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031914, and in further view of Kondo 200500189116, hereinafter "Kondo."  
Applicant respectfully traverses the rejection.

Claim 7 is patentable for at least the reasons discussed above with respect to claim 1, from which it depends. Specifically, the Gordon reference, the Gordon 031914 reference, and the Kondo references either singly or in any allowable combination, fail to disclose or suggest the limitations discussed above with respect to claim 1; namely the steps of "determining" and "encoding" discussed above with respect to claims 1 and 20. Thus, claim 1 is patentable over any combination of these references. Moreover, since claim 7 depends indirectly from claim 1 and recites additional limitations therefrom, claim 7 is also patentable over these references.

#### **Claim 18**

The Examiner has rejected claim 18 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Gordon 031914. Applicant respectfully traverses the rejection.

Claim 18 is patentable for at least the reasons discussed above with respect to claim 1, from which it depends. Specifically, the Gordon references either singly or in any allowable combination, fail to disclose or suggest the limitations discussed above with respect to claim 1; namely the steps of "determining" and "encoding" discussed above with respect to claims 1 and 20. Thus, claim 1 is patentable over any combination of these references. Moreover, since claim 18 depends indirectly from claim 1 and recites additional limitations therefrom, claim 18 is also patentable over these references.

#### **Claim 19**

The Examiner has rejected claim 19 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Gordon 031914, and in further view of Boucher et al 6,675,387, hereinafter "Boucher," hereinafter "Boucher." Applicant respectfully traverses the rejection.

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Claim 19 is patentable for at least the reasons discussed above with respect to claim 1, from which it depends. Specifically, the Gordon references and the Boucher reference, either singly or in any allowable combination, fail to disclose or suggest the limitations discussed above with respect to claim 1; namely the steps of "determining" and "encoding" discussed above with respect to claims 1 and 20. Thus, claim 1 is patentable over any combination of these references. Moreover, since claim 19 depends indirectly from claim 1 and recites additional limitations therefrom, claim 19 is also patentable over these references.

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### CONCLUSION

Thus, Applicant submits that none of the claims presently in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §102 and §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: \_\_\_\_\_

6/29/06



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